

May 12, 2005

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 12th day of May 2005, at 8:00 P.M., and there were

PRESENT: JEFFREY LEHRBACH, CHAIRMAN

 JOHN ABRAHAM, JR. MEMBER

 ANTHONY ESPOSITO, MEMBER

 WILLIAM MARYNIEWSKI, MEMBER

 RICHARD QUINN, MEMBER

 ARLIE SCHWAN, MEMBER

 ROBERT THILL, MEMBER

ABSENT: NONE

ALSO PRESENT: JOHANNA M. COLEMAN, TOWN CLERK

 LEONARD CAMPISANO, ASST. BUILDING INSPECTOR

 RICHARD SHERWOOD, TOWN ATTORNEY

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

PETITION OF RICHARD LIEBRECHT:

THE 1st CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Richard H. Liebrecht, 704 Hall Road, Lancaster, New York 14086 for one [1] variance for the purpose of constructing a detached garage on premises owned by the petitioner at 704 Hall Road, Lancaster, New York; to wit:

A variance from the requirements of Chapter 50, Zoning, Section 9C.(3)(a) of the Code of the Town of Lancaster. The proposed garage will result in a twenty five foot [25'] front yard set back.

Chapter 50, Zoning, Section 9C.(3)(a) of the Code of the Town of Lancaster requires a sixty foot [60'] front yard set back. The petitioner, therefore, requests a thirty five foot [35'] front yard set back variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Planning of the time and place of this public hearing.

Copy of a letter notifying the Town of Elma of the time and place of this public hearing.

Copy of a letter notifying the Department of Public Works, Division of Highway of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Richard Liebrecht

petitioner

704 Hall Road

Lancaster, New York 14086

IN THE MATTER OF THE PETITION OF RICHARD LIEBRECHT

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. QUINN
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Richard Liebrecht and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 12th day of May 2005, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Agricultural Residential District, (AR) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Agricultural Residential District, (AR) as specified in Chapter 50 of the Code of the Town of Lancaster.

That the Erie County Division of Planning commented on the proposed zoning action on May 12, 2005 in a communication which was presented to this board and is on file.

That the Erie County Department of Public Works Division of Highways has commented that the driveway is of a length sufficient to keep vehicles away from the roadway and has advised that a "highway work permit" is required if there is any work done on the County highway.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the requested area variance relief is substantial however should not preclude granting of the variance relief sought.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That the building will not be visible from the west side of the property.

That the neighbors are set back a great distance from the proposed structure and that there are no neighbors to the immediate east of the proposed structure.

That the Erie County Division of Highways has given their approval for the construction of the proposed structure and is of the opinion that previous concerns have been mitigated by project changes and increased set back from the county right of way.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. ESPOSITO	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

May 12, 2005

PETITION OF JOHN & JENNIFER PASTORE:

THE 2nd CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of John and Jennifer Pastore, 46 Rehm Road, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a five [5] foot high fence in a required open space area on premises owned by the petitioners at 46 Rehm Road, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Rehm Road with a south exterior side yard [considered a front yard equivalent] also fronting on Rehm Road. The petitioners propose to erect a five [5] foot high fence within the required open space area of the south exterior side yard fronting on Rehm Road. Said fence would be situated two [2] feet north of the electrical box located on the southwest corner of the subject lot.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioners, therefore, request a two [2] foot fence height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

John Pastore	petitioner
46 Rehm Road	
Lancaster, New York 14086	

Monica Wallace	proponent
47 Rehm Road	
Lancaster, New York 14086	

IN THE MATTER OF THE PETITION OF JOHN & JENNIFER PASTORE

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. THILL, WHO MOVED ITS
ADOPTION, SECONDED BY MR. ABRAHAM
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of John & Jennifer Pastore and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 12th day of May 2005, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicants are the present owners of the premises in question.

That the property for which the applicants are petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That the character of the neighborhood is such that no exterior side yard fences have been erected within the neighborhood except for a similar imitation wrought iron fence on the corner of Hillside Parkway and Pondview Court.

That the property owners at 47 Rehm Road, directly across the street from the petitioners' property have by letter dated May 6, 2005 indicated no objection to the granting of the variance requested.

That the sight lines of the property at 42 Hill Valley Drive will not be adversely affected by the erection of the proposed fence in that the proposed fence is an imitation wrought iron fence with 2" posts placed 4.375" on center with 3.750 open space between each post.

That by letter dated April 20, 2005, the Town Engineer indicated that a fence can be located in the Town easement area along the west property line.

That New York State Electric and Gas by letter dated April 19, 2005, has indicated "no concern with the fence so long as it is placed to the north [house side] of our hand hole".

That Verizon by letter dated May 1, 2005 has advised the petitioner to "call Dig Safely New York" within three days of any fence placement.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial, namely 67%.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That such fence will not unduly shut out light or air to adjoining properties.

That such fence will not create a fire hazard by reason of its construction or location.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. ESPOSITO	VOTED NO
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

May 12, 2005

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 8:45 P.M.

Signed _____
Johanna M. Coleman, Town Clerk and
Clerk, Zoning Board of Appeals
Dated: May 12, 2005

